

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**ALAMEDA COUNTYWIDE
CLEAN WATER PROGRAM
NPDES PERMIT MODIFICATION**

ORDER NO. 99-049

NPDES PERMIT NO. CAS029831

MODIFICATION OF WASTE DISCHARGE REQUIREMENTS, ORDER NO. 97-030 FOR:

THE CITIES OF ALAMEDA, ALBANY, BERKELEY, DUBLIN, EMERYVILLE, FREMONT, HAYWARD, LIVERMORE, NEWARK, OAKLAND, PIEDMONT, PLEASANTON, SAN LEANDRO, UNION CITY, ALAMEDA COUNTY (UNINCORPORATED AREA), THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, AND ZONE 7 OF THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, which have joined together to form the ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter called the Board, finds that:

1. The Board adopted Order 97-030 reissuing waste discharge requirements under the National Pollutant Discharge Elimination System (NPDES) for the Alameda Countywide Clean Water Program for the discharge of storm water to the San Francisco Bay and its tributaries.
2. Pursuant to the terms of the Stipulation and Order for Dismissal in San Francisco BayKeeper, et al. v. California State Water Resources Control Board, Santa Clara County Superior Court, No. CV 761669, the Board agreed that this modification is an appropriate provision to be included in this permit. The permit is therefore modified.
3. This action to modify an NPDES Permit is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code [California Environmental Quality Act (CEQA)] pursuant to Section 13389 of the California Water Code.
4. The Dischargers and interested agencies and persons have been notified of the Board's intent to modify waste discharge requirements for the existing discharge and have been provided an opportunity for a public hearing and the opportunity to submit their written views and recommendations.
5. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED, that Order No. 97-030 is modified to modify Provision B.2, as shown below (*Item 1*), and to delete Provision C.1 and to replace that language with the following, which shall

be inserted at the end of the Receiving Water Limitations (*Item 2*).

1. Provision B.2 shall be modified as shown below, with strikeout indicating deletion of existing language:

The discharge shall not cause a violation of any applicable water quality objective for receiving waters. If applicable water quality objectives are adopted and approved by the State Board after the date of the adoption of this Order, the Regional Board may revise and modify this Order. Receiving Water Limitations are based upon beneficial uses, water quality objectives and water quality standards contained in the Basin Plan, and amendments thereto, and on ambient water quality.

~~The discharge of storm water, or non storm water, from a municipal storm sewer system for which the Dischargers are responsible, under the terms of this Order shall not cause any of the above conditions to continue or recur in the receiving waters. The Dischargers will not be in violation of these limitations so long as they are in compliance with the following requirements:~~

- ~~a. If the Executive Officer determines that continuing or recurring exceedance of any Receiving Water Limitation listed above has been caused by discharge from the municipal storm sewer system, or if the discharge causes a violation of any applicable water quality objective for receiving waters, the following steps shall be taken:~~
 - ~~i. The Executive Officer shall notify the Board of this fact and of subsequent actions as described below.~~
 - ~~ii. The Executive Officer will evaluate the adequacy of the Discharger's implementation of the Plan based on the Dischargers' submitted reports. The Executive Officer will determine if implementation of the plan has a reasonable likelihood of preventing future exceedances of Receiving Water Limitations. If the Executive Officer makes this determination, the Dischargers are required to continue implementing the Plan.~~
 - ~~iii. If the Executive Officer determines that implementation of the Plan will not have a reasonable likelihood of preventing future exceedances of Receiving Water Limitations, the Dischargers shall, upon notice from the Executive Officer, do the following:~~
 - ~~(a) The Executive Officer may require the Dischargers to submit a report that includes an evaluation of the relative contribution of the storm water discharges to the exceedance of the Receiving Water Limitation. The report shall address the persistence and the causes of the exceedance, and evaluate, if appropriate, whether the pollutant(s) causing the exceedance(s) can be controlled by the Dischargers.~~
 - ~~(b) The Executive Officer may require the Dischargers to submit a report reviewing the Plan to determine whether it should be revised so there will be a reasonable likelihood of preventing future exceedances of Receiving Water Limitations, or whether revisions to achieve compliance with Receiving Water Limitations cannot be made based on technical feasibility, economic studies, and other pertinent factors. If the report recommends revision of the Plan, the report shall include a work plan to revise the Plan so that it will have a reasonable likelihood of preventing future exceedances of Receiving Water Limitations. If the report concludes that no revisions are necessary to achieve compliance with Receiving Water Limitations, the report shall explain how implementation of the Plan will achieve compliance. If the report determines that revisions cannot be made to achieve compliance~~

~~with Receiving Water Limitations based on technical feasibility, economic studies, and other pertinent factors, or if the Discharger determines that the pollutant(s) causing the exceedance(s) cannot be controlled by the Dischargers, the Dischargers shall continue to comply with the Plan, shall fully document this determination, and shall make such recommendations, supported by the report documentation, identifying the nature of the actions that may be necessary to achieve future compliance.~~

- ~~(e) Any economic study may include evaluating the cost of implementing a control measure against its reasonable relationship to the pollution control benefits to be achieved. When required under (b) above, the Dischargers shall implement the work plan and their revised Plan as approved by the Executive Officer.~~
- ~~(d) The Executive Officer shall review and approve or disapprove the reports required under the preceding provisions in a timely fashion. The reports shall be submitted to the Executive Officer within 60 days of a request from the Executive Officer. Extension of this submittal deadline with cause will require the Executive Officer's approval. So long as the Dischargers have complied with the procedures set forth in the preceding provisions, they do not have to repeat the procedure for continuing or recurring exceedances of the same Receiving Water Limitation. As appropriate, any determination under this part or revisions to the plan may be considered by the Regional Board in a public meeting.~~

2. Provision C.1 shall be deleted and that language replaced with the following:

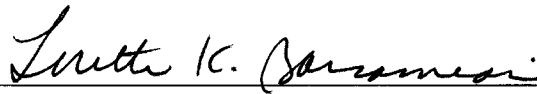
The permittees shall comply with Discharge Prohibition A.1 and A.2. and Receiving Water Limitations B.1 and B.2 through the timely implementation of control measures and other actions to reduce pollutants in the discharge in accordance with Provisions C.2 through C.7 and their Storm Water Management Plan and any of its modifications, revisions, or amendments developed pursuant to this Order (Plan); the Plan shall be designed to achieve compliance with Discharge Prohibition A.1 and A.2 and Receiving Water Limitations B.1 and B.2. If exceedance(s) of water quality objectives or water quality standards (collectively, WQSs) persist notwithstanding implementation of Provisions C.2 through C.7 and the Plan, a permittee shall assure compliance with Discharge Prohibitions A.1 and A.2 and Receiving Water Limitations B.1 and B.2 by complying with the following procedure:

- a. Upon a determination by either the permittee or the Regional Water Board that discharges are causing or contributing to an exceedance of an applicable WQS, the permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSs. The report may be incorporated in the annual update to the Plan unless Regional Water Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the report;
- b. Submit any modifications to the report required by the Regional Board within 30 days of notification;
- c. Within 30 days following approval of the report described above by the Regional Board, the permittee shall revise its Plan and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required;

- d. Implement the revised Plan and monitoring program in accordance with the approved schedule.

So long as permittees have complied with the procedures set forth above and are implementing the revised Plan, they do not have to repeat the same procedure for continuing or recurring exceedances of the same WQS unless directed by the Regional Board to develop additional BMPs.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 21, 1999.



LORETTA K. BARSAMIAN
Executive Officer